

FILED
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U.S. DISTRICT COURT E.D.N.Y.

★ JUL 08 2011 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
SANDRA LEDYARD,

Plaintiff,

-against-

JEFFREY ROTH AND TARYN ROTH,

Defendants.
-----X

CIVIL ACTION NO.:

CV 11 - 3305

WEINSTEIN, J.

NOTICE OF REMOVAL

J. ORENSTEIN, M.J.

TO THE HONORABLE JUDGES IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK:

Defendants, JEFFREY ROTH and TARYN ROTH, by and through their
attorneys, CRUSER, MITCHELL & NOVITZ, LLP respectfully as follows:

1. Plaintiff has commenced an action in the Supreme Court of New York,
Queens County. See Plaintiff's Summons & Complaint attached hereto as
Exhibit "A".
2. According to the Complaint, this lawsuit arises out of a motor vehicle accident
which allegedly occurred on September 22, 2010 in Queens County, New
York. See Exhibit "A".
3. Pursuant to the Stipulation attached as Exhibit "B", Plaintiff's counsel agreed
to extend Jeffrey Roth and Taryn Roth's time to answer, appear or make any
motion pertaining to this case to and including July 8, 2011.

4. Upon information and belief and according to the Plaintiff's complaint, Plaintiff SANDRA LEDYARD resides in Queens county
5. Prior to the commencement of this action and as of March 29, 2011, defendant, Jeffrey Roth was and is a resident of the State of West Virginia.
6. Prior to the commencement of this action and as of March 29, 2011 defendant Taryn Roth, was and is a resident of the State of West Virginia.
7. In the Complaint, plaintiff demands damages in the amount which exceeds all jurisdictional limits of all lower courts. See Exhibit "A".
8. Based upon a fair reading of the Complaint, plaintiff has set forth a claim in which an amount in excess of the jurisdictional limit of \$75,000, exclusive of interests and costs, is at stake.
9. Diversity of citizenship within the meaning of 28 U.S.C. § 1332, exists between plaintiff and defendants since:
 - (a) Defendants Jeffrey Roth and Taryn Roth are citizens or residents of the State of West Virginia;
10. The undersigned has been retained as defense counsel for defendants Jeffrey Roth and Taryn Roth and they consent to removal.
11. Furthermore, diversity of citizenship existed at the time the action sought to be removed, was commenced and continues through the time of filing of this notice, such that defendants are entitled to removal pursuant to 28 U.S.C. § 1441 as amended, and 28 U.S.C. § 1446.

WHEREFORE, Defendants, Jeffrey Roth and Taryn Roth prays that the above-captioned action now pending in the Supreme Court of New York for Queens County, be removed therefrom to This Honorable Court.

CRUSER, MITCHELL & NOVITZ, LLP

BY: Rondiene E. Novitz

Rondiene E. Novitz, Esq.

Attorneys for Defendants

Jeffrey Roth and Taryn Roth

175 Pinelawn Road, Suite 301

Melville, New York 11747

(631) 539-0375

File No.: 753.007

CERTIFICATE OF SERVICE

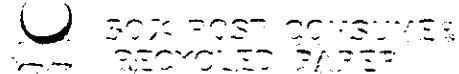
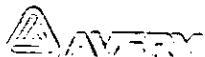
I hereby certify that a true and correct copy of the foregoing Notice of Removal was served upon the below listed counsel this 7th day of July, 2011, by first-class mail, postage prepaid.

Mallilo & Grossman, Esqs.
163-09 Northern Blvd.
Flushing NY 11358

CRUSER, MITCHELL & NOVITZ, LLP

A handwritten signature in dark ink, appearing to read "Rondiene E. Novitz", is written over a horizontal line.

Rondiene E. Novitz, Esq.



10PI855

SUPREME COURT: QUEENS COUNTY

SANDRA LEDYARD

Plaintiff(s),

-against-

JEFFREY ROTH AND TARYN ROTH

Defendant(s)

Index No.: 10080/2011

Date Purchased: 4/15/2011

SUMMONS

The basis of venue

is:

Plaintiff's Residence

Plaintiff resides

at:

114-95 228TH Street

Cambria Heights, NY 11411

County of Queens

TO THE ABOVE NAMED DEFENDANT(s):

YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on plaintiff's attorneys within 20 days after service of this summons, exclusive of the day of service, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

DATED: Queens, New York

March 5, 2011

D/A: September 22, 2010

Yours, etc.,

MALLILO & GROSSMAN, ESQS.

Attorney for Plaintiff(s)

163-09 Northern Boulevard

Flushing, New York 11358

718-461-6633

Jeffrey Roth

65-46 160 Street.

Fresh Meadows NY 11365

#4L

Taryn Roth

65-46 160 Street

Fresh Meadows NY 11365

#4L

Jeffrey Roth.

506 Timberline

Morgantown WV 26505

SUPREME COURT, QUEENS COUNTY

-----X
SANDRA LEDYARD

Plaintiff(s),

VERIFIED COMPLAINT

Index No.:

-against-

JEFFREY ROTH AND TARYN ROTH

Defendant(s)
-----X

Plaintiff, by their attorneys, MALLILO & GROSSMAN, ESQS,
complaining of the defendants herein, respectfully show to the Court and allege:

1. That this plaintiff, SANDRA LEDYARD, was and still is a resident of the County of Queens, City and State of New York.
2. That defendant, TARYN ROTH, was and still is a resident of the County of Queens, City and State of New York.
3. That defendant, JEFFREY ROTH, was and still is a resident of the County of Queens, City and State of New York.
4. That at all times hereinafter mentioned, a certain motor vehicle bearing registration number DMH8565, 1998 ME/BE, in the State of New York was owned by SANDRA LEDYARD.
5. That at all times hereinafter mentioned, a certain motor vehicle bearing registration number DMH8565, 1998 ME/BE, in the State of New York was operated by the plaintiff, SANDRA LEDYARD.
6. Upon information and belief that at all times hereinafter mentioned, a certain motor vehicle bearing registration number DME8583, 2000 Dodge, in the State of New York was owned by the defendant, JEFFREY ROTH.

7. Upon information and belief that at all times hereinafter mentioned, a certain motor vehicle bearing registration number DME8583, 2000 Dodge, in the State of New York was operated by the defendant, TARYN ROTH.

8. Upon information and belief that at all times hereinafter mentioned, at or near the intersection of Linden Blvd. and Van Wyck Expressway Service Road, in the County of Queens, City and State of New York, were and still are public thoroughfares located in said County of Queens State of New York.

9. That on September 22, 2010 the aforesaid motor vehicle of the defendant was in contact with the motor vehicle operated by the plaintiff SANDRA LEDYARD.

10. That said contact took place at or near the intersection of Linden Blvd. and Van Wyck Expressway Service Road, in the County of Queens, City and State of New York.

11. That the aforesaid collision occurred without any fault or negligence on the part of the plaintiff contributing thereto and was caused solely and wholly by the defendants negligence.

12. That the defendant was negligent in the operation, maintenance, management and control of their motor vehicle, in causing, permitting and allowing it to come in contact with the plaintiffs vehicle; in failing to give due and proper warning of the movements of their said motor vehicle in order to avoid the accident; in operating their motor vehicle at an excessive rate of speed; in failing to keep a proper lookout upon the highway; and in so operating the said motor vehicle as to cause the same to come into contact, in violation of the statutes, ordinances and regulations in such cases made and provided.

13. That as a result of the foregoing contact the plaintiff, SANDRA LEDYARD, was caused to be injured.

14. That as a result of the foregoing, the plaintiff, SANDRA LEDYARD, was caused to suffer a "serious injury" as that term is defined in subdivision 4 of Section 5102 of the Insurance Law of the State of New York, and being a covered person and claiming against a covered person, is entitled to recover for noneconomic loss, including pain, suffering and disfigurement and is entitled to recover for such economic loss as exceeds basic economic.

15. That by reason of the premises and wrongful acts and omissions on the part of the defendants as aforesaid, the plaintiff, SANDRA LEDYARD, has suffered and will continue to suffer, pain and agony in mind and body and were unable to attend to her duties, all to her damage in the sum which exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, the plaintiff demands judgment against the defendants and the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

DATED: Queens, New York
March 5, 2011

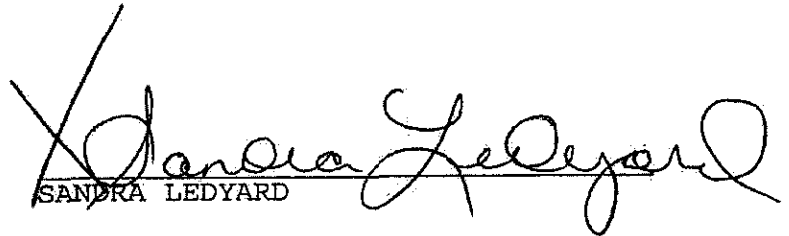
MALLILO & GROSSMAN
Attorney for Plaintiffs
163-09 Northern Blvd.
Flushing, New York 11358
(718) 461-6633
10PI855

STATE OF NEW YORK)
) SS.:
COUNTY OF QUEENS)


I, SANDRA LEDYARD, BEING DULY SWORN DEPOSES AND SAYS:

THAT I AM THE PLAINTIFF IN THE WITHIN ACTION.

THAT I HAVE READ THE FOREGOING COMPLAINT AND KNOW THE CONTENTS THEREOF; THE SAME IS TRUE AND TO MY OWN KNOWLEDGE, EXCEPT AS TO THE MATTERS HEREIN STATED TO AS ALLEGED ON INFORMATION AND BELIEF, AND AS TO THOSE MATTERS I BELIEVE IT TO BE TRUE.


SANDRA LEDYARD

SWORN TO BEFORE ME THIS
19 DAY OF April, 2011


ANTHONY MALLILO
Notary Public, State of New York
No. 021144880835
Qualified in Queens County
Commission Expires Oct. 31 2014

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Cruser Mitchell Novitz

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May

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS**

SANDRA LEDYARD,

Plaintiff(s),

-against-

JEFFREY ROTH AND TARYN ROTH
Defendants.

Index #: 10080/2011

**STIPULATION
EXTENDING TIME TO
ANSWER**

IT IS HEREBY STIPULATED by and between the attorneys listed below the time for which Defendants, JEFFREY ROTH AND TARYN ROTH, have to answer, appear or make any motion pertaining to the above captioned action is hereby extended to and including July 8, 2011. An executed copy of this stipulation shall be deemed the same as a signed original.

Dated: Melville, New York
June 9, 2011

MALLILO & GROSSMAN, ESQS.

By:

Attorneys for Plaintiffs
163-09 Northern Boulevard
New York, NY 11358
(718)461-6633

CRUSER, MITCHELL & NOVITZ, LLP

By: *Rondene E. Novitz, Esq.*
Attorneys for Defendants
175 Pinelawn Road, Suite 301
Melville, New York 11747
(631) 539-0375
File#: 7531007